

N.C.P.I.—Crim 247.10
NON-FELONIOUS CRUELTY TO (AN) ANIMAL(S). MISDEMEANOR.
REPLACEMENT JUNE 2017
N.C. Gen. Stat. § 14-360(a)

247.10 NON-FELONIOUS CRUELTY TO (AN) ANIMAL(S). MISDEMEANOR.

NOTE WELL: Use N.C.P.I.—Crim. 247.10A for Felonious Cruelty to (An) Animal(s).

NOTE WELL: Effective January 1, 1999, N.C. Gen. Stat. § 14-360 makes it a Class 1 misdemeanor "if any person shall intentionally overdrive, overload, wound, injure, torment, kill, or deprive of necessary sustenance, or cause or procure to be overdriven, overloaded, wounded, injured, tormented, killed or deprived of necessary sustenance, any animal."

Additionally, it shall be a Class I felony "if any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal."

See N.C.P.I.—Crim. 247.10A. N.C. Gen. Stat. § 14-360(c)(1)-(4) provides for activities to which the prohibitions of this section do not apply.

The defendant has been charged with non-felonious cruelty to (an) animal(s).

For you to find the defendant guilty of this offense the State must prove two things beyond a reasonable doubt:

First, that the defendant

[(a) [overdrove] [overloaded] [wounded] [injured] [tormented]
[killed] [deprived of necessary sustenance]]

[(b) [caused] [procured] to be [overdriven] [overloaded] [wounded]
[injured] [tormented] [killed] [deprived of necessary
sustenance]]

(*name type of animal(s)*).

And Second, that the defendant acted intentionally,¹ that is, knowingly (and without justification or excuse.)²

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NOTE WELL: If the defendant presents evidence of justification or excuse, e.g., self-defense, defense of other, etc., then the instruction should be amended to add these defenses. If added, these defenses must be included to the mandate.

(When the defendant asserts that the action was justified or excused, the defendant is, in effect, denying the existence of those facts, which the state must prove beyond a reasonable doubt in order to convict the defendant. The burden is on the state to prove those essential facts and in so doing disprove the defendant's assertion of justification or excuse. The State must satisfy you beyond a reasonable doubt that the act toward the animal was not justified or excused before you may return a verdict of guilty.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant intentionally

[(a) [overdrove] [overloaded] [wounded] [injured] [tormented]
[killed] [deprived of necessary sustenance]]

[(b) [caused] [procured] to be [overdriven] [overloaded] [wounded]
[injured] [tormented] [killed] [deprived of necessary
sustenance]]

(*name type of animal(s)*), it would be your duty to return verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.³

1 For the definition of intent see N.C.P.I.—Crim. 120.10.

2 If the defendant presents evidence of justification or excuse, e.g., self-defense, defense of other, etc., then the instruction should be amended to add these defenses. Special care should be used to add these defenses in the mandate.

3 If self defense or other defenses are added, they must be added to the mandate.